

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re:

U.S. Patent No. 6,275,821

Sherif Danish et al.

Application No. 09/384,303

Re-Exam Control No. 90/009,316

For: Method and system for executing
a guided parametric searchPETITION UNDER 37 C.F.R. §1.377Director of the U.S. Patent & Trademark Office
Mail Stop Petitions
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Director:

Patentee hereby petitions under 37 C.F.R. § 1.377 from the decision taken by the U.S. Patent Office on September 14, 2009 to hold the above-identified patent expired for failure to pay a maintenance fee. The Patentee believes this holding to be in error and respectfully petitions that this holding be reversed and the patent deemed unexpired and in force.

Proof of Service:

The undersigned hereby certifies, under 37 C.F.R. § 1.248(b)(2), that, on the date given below, a true copy of this paper was sent by first class mail (37 C.F.R. § 1.248(a)(4)) to Edwin H. Taylor at Blakely, Sokoloff, Taylor & Zafman LLP, 1279 Oakmead Parkway, Sunnyvale, California 94085-4040.



Carla L. Jones,

Assistant to Steven L. Nichols, Attorney for Patentee

Date:

10/29/2009

This petition is timely under 37 C.F.R. § 1.377 as filed within two months of the decision taken September 14, 2009 to hold the patent in question to be expired.

The maintenance fee for the patent identified above, was due on August 14, 2009. Just prior to that date on August 4, 2009, the Patentee filed a paper with the U.S. Patent & Trademark Office of which a copy is attached.

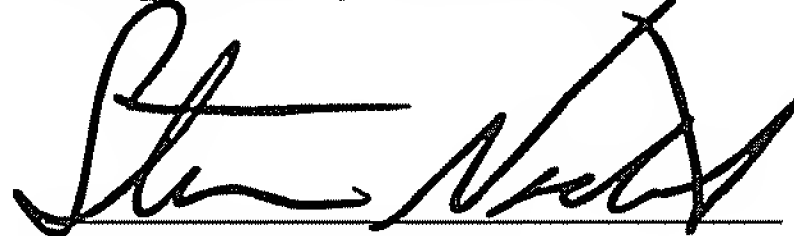
That paper, filed in connection with the re-examination of the patent, correctly identified the patent in question by patent number and by Re-exam control number. The paper also made the following statement. “[P]lease charge any fees to Deposit Account 18-0013/40420-0001 under 37 CFR 1.16, 1.17, 1.19, 1.20 and 1.21.” (Office Action Response, filed 8/4/09). This passage is highlighted in the attached copy of the paper filed August 4, 2009.

37 CFR 1.20, “Post issuance fees,” which was explicitly referenced above, governs the payment of maintenance fees. Consequently, the Patentee believe that this filing on August 4, 2009 did and should have served as notice as timely payment of the required maintenance fee. Specifically, the filing on August 4, 2009 included explicit instructions to charge the maintenance fee due on August 14, 2009 for this patent to the indicated Deposit Account. The indicated Deposit Account, both now and at that time, has and had sufficient funds to cover the required maintenance fee.

Therefore, the Patentee respectfully petitions the Director to accept the maintenance fee due in this patent as timely filed and, if still necessary, to charge the same to Deposit Account 18-0013 in the name of Rader, Fishman & Grauer PLLC. The Patentee further respectfully petitions the Director to withdraw the premature holding that the above-identified patent has expired for lack of the requisite maintenance fee.

If any fees are owed in connection with this paper including the petitions fee due under 37 C.F.R. §1.17(g), that have not been elsewhere authorized, authorization is hereby given to charge those fees to Deposit Account 18-0013 in the name of Rader, Fishman & Grauer PLLC. Patentee hereby further requests under 37 C.F.R. § 1.377 that, should the expiration of the patent be found in error, the petition fee due for this petition be refunded to the indicated deposit account.

Respectfully submitted,



Steven L. Nichols

Registration No. 40,326

DATE: 29 October 2009

Steven L. Nichols, Esq.
Managing Partner, Utah Office
Rader Fishman & Grauer PLLC
River Park Corporate Center One
10653 S. River Front Parkway, Suite 150
South Jordan, Utah 84095

(801) 572-8066
(801) 572-7666 (fax)

Electronic Acknowledgement Receipt	
EFS ID:	5826016
Application Number:	90009316
International Application Number:	
Confirmation Number:	8555
Title of Invention:	METHOD AND SYSTEM FOR EXECUTING A GUIDED PARAMETRIC SEARCH
First Named Inventor/Applicant Name:	6275821
Customer Number:	20480
Filer:	Steven L. Nichols/Mindy McClelland
Filer Authorized By:	Steven L. Nichols
Attorney Docket Number:	40420-0001
Receipt Date:	04-AUG-2009
Filing Date:	28-OCT-2008
Time Stamp:	16:26:52
Application Type:	Reexam (Third Party)

Payment information:

Submitted with Payment		no			
File Listing:					
Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
1	NPL Documents	NPL- AffidavitofMohamedSherifDani sh.pdf	405953 784cb2bd90240e660604c23fbe791b582fe9de6b	no	19
Warnings:					
Information:					

2	NPL Documents	NPL- DeclarationofHoracioWoolcott. pdf	219547	no	9
			bbe3cf32afd2ad745ee54e6ffb878dbbe5a506		
Warnings:					
Information:					
3	NPL Documents	NPL-DeclarationofJackBaldwin. pdf	138212	no	3
			c8154e39924a737a7d97333007b42884750b3ed4		
Warnings:					
Information:					
4	NPL Documents	NPL- DeclarationofJackBaldwininSup portofPlaintiff.pdf	112616	no	3
			193eddfebbf4102fd55f057be14e2c7cbce40544		
Warnings:					
Information:					
5	NPL Documents	NPL-DeclarationofJTiptonCole. pdf	140347	no	5
			dd40ac1ec4106548907ca0ae62bf6501b73a942d		
Warnings:					
Information:					
6	NPL Documents	NPL- DeclarationofJTiptonColeinSup portofPlaintiff.pdf	139309	no	5
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Warnings:					
Information:					
7	NPL Documents	NPL- DefendantsMotiontoTransfer. pdf	508978	no	21
			654a20ac03d004197a19aaf082d784b8b515e62f		
Warnings:					
Information:					
8	NPL Documents	NPL-DefendantsMSJ.pdf	3010445	no	65
			feb73f37ff2046a9760c365d8e5889ac1768d269		
Warnings:					
Information:					
9	NPL Documents	NPL- DepositionofKrisWKimbrough. pdf	398121	no	15
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Warnings:					
Information:					
10	NPL Documents	NPL-DepositionofLiorAmram. pdf	939079	no	55
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Warnings:					
Information:					

11	NPL Documents	NPL-DepositionofSherifDanish.pdf	765441	no	29
			76b6a243a0c2b6f8c0e653e27adc0d5ae4f45fc5		
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12	NPL Documents	NPL-JointClaimConstructionandPrehearingStatement.pdf	474341	no	15
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13	NPL Documents	NPL-JointStipulation.pdf	163817	no	9
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14	NPL Documents	NPL-PlaintiffsDisclosure.pdf	3541234	no	58
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Information:					
15	NPL Documents	NPL-PlaintiffsResponseMotiontoTransfer.pdf	606834	no	20
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Warnings:					
Information:					
16	NPL Documents	NPL-ProposalforDevelopmentofaNavigatorforEADS.pdf	284779	no	12
			fa3e78a47310649bfcfde7819d631e03edcc10c8		
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Information:					
17	NPL Documents	NPL-DefendantsReplyBriefJuly022009.pdf	122410	no	26
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18	NPL Documents	NPL-DeclarationofTheodoreWChandler.pdf	535971	no	28
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Warnings:					
Information:					
19		40420-0001-Resp.pdf	254711	yes	21
			727e8073871e2f1178ec13dc74c3e5aa58a64e46		

	Multipart Description/PDF files in .zip description				
	Document Description		Start	End	
	Amendment After Final		1	2	
	Claims		3	7	
	Applicant Arguments/Remarks Made in an Amendment		8	21	
Warnings:					
Information:					
20	Information Disclosure Statement (IDS) Filed (SB/08)	40420-0001-IDS.pdf	609449 05f7a58e60f011d14a9e149b9d1db37558a0fc36	no	5
Warnings:					
Information:					
A U.S. Patent Number Citation or a U.S. Publication Number Citation is required in the Information Disclosure Statement (IDS) form for autoloading of data into USPTO systems. You may remove the form to add the required data in order to correct the Informational Message if you are citing U.S. References. If you chose not to include U.S. References, the image of the form will be processed and be made available within the Image File Wrapper (IFW) system. However, no data will be extracted from this form. Any additional data such as Foreign Patent Documents or Non Patent Literature will be manually reviewed and keyed into USPTO systems.					
21	NPL Documents	NPL- JointStipulationReplacingDocu ments.pdf	59895 70caeb9296536cd25e1ed596fe18a97d3c0e4d47	no	11
Warnings:					
Information:					
Total Files Size (in bytes):			13431489		
<p>This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.</p> <p><u>New Applications Under 35 U.S.C. 111</u> If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.</p> <p><u>National Stage of an International Application under 35 U.S.C. 371</u> If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.</p> <p><u>New International Application Filed with the USPTO as a Receiving Office</u> If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.</p>					

In re Patent Application: 6275821

Application No.: 90/009,316

Filed: October 28, 2008

Title: “Method and System for Executing a Guided Parametric Search”

Confirmation No.: 8555

TRANSMITTAL LETTER FOR RESPONSE/AMENDMENT

Transmitted herewith is/are the following in the above-identified application:

- [illegible]

CLAIMS AS AMENDED BY A LARGE ENTITY						
FOR	CLAIMS REMAINING AFTER AMENDMENT	NUMBER EXTRA	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE	ADDITIONAL FEES
TOTAL CLAIMS	9	MINUS	20	= 0	X \$52.00	\$0.00
INDEP. CLAIMS	3	MINUS	3	= 0	X \$220.00	\$0.00
[] FIRST PRESENTATION OF A MULTIPLE DEPENDANT CLAIM					+ \$390.00	\$0.00
EXTENSION FEE	[] 1ST MONTH \$130.00	[] 2ND MONTH \$490.00	[] 3RD MONTH \$1110.00	[] 4TH MONTH \$1730.00	\$0.00	
OTHER FEES:						\$180.00
TOTAL ADDITIONAL FEE FOR THIS AMENDMENT						\$180.00

Please charge **\$180.00** to Deposit Account **18-0013/40420-0001**. At any time during the pendency of this application, please charge any fees required or credit any overpayment to Deposit Account **18-0013/40420-0001** pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account **18-0013/40420-0001** under 37 CFR 1.16, 1.17, 1.19, 1.20 and 1.21.

Respectfully submitted,

By: /Steven L. Nichols/
Steven L. Nichols (Reg. No.: 40,326)
 Attorney/Agent for Applicant(s)
 Telephone No.: (801) 572-8066
 Date: August 4, 2009

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Re-Examination of

U.S. Patent No. 6,275,821

Sherif Danish et al.

Re-Exam Control No. 90/009,316

For: Method and system for executing
a guided parametric search

Group Art Unit: 3992

Examiner: B. James Peikari

Confirmation No.: 8555

AFTER-FINAL AMENDMENT UNDER 37 C.F.R. § 1.116

Commissioner for Patents
Mail Stop Amendment
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Commissioner:

In response to the final Official Action mailed on **June 18, 2009**, please consider the following.

A Listing of Claims begins on Page 2 of this response.

Remarks begin on Page 7 of this response.

Proof of Service:

The undersigned hereby certifies, under 37 C.F.R. § 1.248(b)(2), that, on the date given below, a true copy of this paper was sent by first class mail (37 C.F.R. § 1.248(a)(4)) to Edwin H. Taylor at Blakely, Sokoloff, Taylor & Zafman LLP, 1279 Oakmead Parkway, Sunnyvale, California 94085-4040.

/Steven L. Nichols/
Steven L. Nichols, Attorney for Patentee

Date: August 4, 2009

IN THE CLAIMS:

The status and content of each claim follows.

1. (original) A method for assisting a user in identifying a subfamily of items within a family of items, comprising the steps of:
 - (a) providing a computer readable data file of stored information representing at least one family of items, said data file identifying at least one alternative for each item,
 - (b) reading said data file,
 - (c) displaying a feature screen indicating said alternatives represented in the family,
 - (d) accepting a first selection criteria of at least one alternative,
 - (e) determining a first subfamily of items wherein each said item in the first subfamily satisfies said first selection criteria,
 - (f) determining available alternatives represented in the first subfamily,
 - (g) revising said feature screen to indicate the available alternatives of the first subfamily,
 - (h) accepting a second selection criteria comprising the alternative or alternatives of the first selection criteria plus at least one alternative selected from the revised feature screen,
 - (i) determining a second subfamily of items of the family wherein each item in the second subfamily satisfies said second selection criteria,

- (j) determining available alternatives represented in the second subfamily, and
- (k) revising said feature screen to indicate the available alternatives of the second subfamily.

2. (currently amended) The method of claim 1, in which steps (a)-(k) are performed with a server connected to a computer network and communicating with a client computer via said computer network, said displaying a feature screen being outputting data to said client computer via said computer network representing said feature screen to be displayed on said client computer,

wherein each family has at least one feature associated therewith and further comprising the step of

displaying at least one grouping wherein each said grouping comprises one of said features visually related to respective alternatives.

3. (original) The method according to claim 2 and further comprising the step of:

providing an interactive pointer and displaying information specific to one of said features upon a user initiated signal when said pointer is pointing to a feature caption on said feature screen.

4. (original) The method according to claim 2 wherein at least one said groupings is hidden from view if all said respective alternatives are not available.

5. (original) A method for assisting a user in identifying a subfamily of items within a family of items, comprising the steps of:
- (a) providing a computer readable data file of stored information representing at least one family of items, said data file identifying at least one alternative for each item,
 - (b) reading said data file,
 - (c) displaying a feature screen indicating said alternatives represented in the family,
 - (d) accepting a selection criteria of more than one of said alternatives,
 - (e) determining the subfamily of items wherein each said item in the subfamily satisfies said selection criteria,
 - (f) in the event the subfamily comprises zero items, deselecting the most recently selected alternative of that selection criteria,
 - (g) determining the subfamily of items wherein each said item in the subfamily satisfies said selection criteria as modified by the deselection of the most recently selected alternative,
 - (h) revising said feature screen to indicate the available alternatives of the subfamily.
6. (original) The method of claim 5 wherein each family has at least one feature associated therewith and further comprising the step of

displaying at least one grouping wherein each said grouping comprises one of said features visually related to respective alternatives.

7. (original) The method according to claim 6 and further comprising the step of:

providing an interactive pointer and displaying information specific to one of said features upon a user initiated signal when said pointer is pointing to a feature caption on said feature screen.

8. (original) The method according to claim 6 wherein at least one said groupings is hidden from view if all said respective alternatives are not available.

9. (new) A method for assisting a user in identifying a subfamily of items within a family of items, the method comprising the following steps which are performed with a server connected to a computer network:

(a) accessing a computer readable data file of stored information representing at least one family of items, said data file identifying at least one alternative for each item,

(b) reading said data file,

(c) outputting data for a feature screen indicating said alternatives represented in the family, said data being output to a client computer via said computer network,

- (d) receiving and accepting a first selection criteria of at least one alternative from said client computer, said first selection criteria being received by said server from said client computer via said computer network,
- (e) determining a first subfamily of items wherein each said item in the first subfamily satisfies said first selection criteria,
- (f) determining available alternatives represented in the first subfamily,
- (g) revising said data for said feature screen to indicate the available alternatives of the first subfamily and outputting said revised data for said feature screen to said client computer via said computer network,
- (h) receiving and accepting a second selection criteria from said client computer via said computer network, in which said second selection criteria comprises (1) a resubmission by said client computer of the alternative or alternatives of the first selection criteria along with (2) at least one alternative selected from the revised feature screen,
- (i) determining a second subfamily of items of the family wherein each item in the second subfamily satisfies said second selection criteria,
- (j) determining available alternatives represented in the second subfamily, and
- (k) revising said data for said feature screen to indicate the available alternatives of the second subfamily and outputting said revised data for said feature screen to said client computer via said computer network.

REMARKS

This is a full and timely response to the final Official Action mailed **June 18, 2009** (the “Office Action” or “Action”). Reconsideration of the application in light of the following remarks is respectfully requested.

Examiner Interview:

Patentee wishes to express thanks to both Examiner James Peikari and SPE Jessica Harrison for the helpful in-person interview granted to Patentee on July 16, 2009. At that interview, the merits of claim 1 were discussed relative to the cited prior art and, particularly, the proper construction of language in the claim. While no final resolution was reached, Patentee wishes again to express appreciation for the preparation and helpful comments provided by Examiners Harrison and Peikari at that interview. This statement will serve as Patentee’s summary of the interview as required.

Claim Status:

Claims 1-8 were issued in U.S. Patent No. 6,275,821. Re-examination has been granted only with respect to claims 1 and 2. Claim 2 has been amended by the present paper.

A new claim, claim 9, is proposed by the present paper for consideration by the Examiner. Claim 9 very closely tracks the language of claim 1. Consequently, it is not believed that claim 9 raises any new issues that are not already under consideration. Rather, claim 9 includes alternative language that reflects the construction of limitations already present in claim 1, as discussed at the interview on July 16, 2009.

Consequently, claims 1-8 remain patented and in force. Claims 1, 2 and 9 are under consideration in this re-examination.

Prior Art:

(1) Claims 1 and 2 were finally rejected under 35 U.S.C. § 102(b) as anticipated by Granaki et al., *A Component Library Management System and Browser*, ISI Research Report, ISI/RR-93-386, USC/Information Sciences Institute, April 1993 ("Granaki"). For at least the following reasons, this rejection should be reconsidered and withdrawn.

For convenience, claim 1 is reproduced here. Claim 1 recites:

A method for assisting a user in identifying a subfamily of items within a family of items, comprising the steps of:

- (a) providing a computer readable data file of stored information representing at least one family of items, said data file identifying at least one alternative for each item,
- (b) reading said data file,
- (c) displaying a feature screen indicating said alternatives represented in the family,
- (d) accepting a first selection criteria of at least one alternative,
- (e) determining a first subfamily of items wherein each said item in the first subfamily satisfies said first selection criteria,
- (f) determining available alternatives represented in the first subfamily,
- (g) revising said feature screen to indicate the available alternatives of the first subfamily,
- (h) accepting a second selection criteria comprising the alternative or alternatives of the first selection criteria plus at least one alternative selected from the revised feature screen,
- (i) determining a second subfamily of items of the family wherein each item in the second subfamily satisfies said second selection criteria,
- (j) determining available alternatives represented in the second subfamily, and
- (k) revising said feature screen to indicate the available alternatives of the second subfamily.

(Emphasis added).

At issue with regard to claim 1 is the meaning of the language of step (h), i.e., “accepting a second selection criteria comprising the alternative or alternatives of the first selection criteria plus at least one alternative selected from the revised feature screen.” In light of the specification, Patentee contends that the most reasonable interpretation of this language should be “receiving and accepting a second selection criteria, in which said second selection criteria comprises (1) a *resubmission* of the alternative or alternatives of the first selection criteria along with (2) at least one alternative selected from the revised feature screen.” (Claim 9) (emphasis added). The Patentee has expressly incorporated this definitional language into claim 9. In support of this, Patentee notes that claim 1, in an earlier step, recites “(d) accepting a first selection criteria of at least one alternative.” As used here, the term “accepting,” would be understood by one of ordinary skill in the art to necessarily include receiving the first selection criteria, which is then used to determine a first subfamily in subsequent step (e).

Consequently, when used again in step (h), the term “accepting” should again encompass the act of *receiving* specified data. And, the data that is being received is expressly identified in step (h) of claim 1, i.e., the “second selection criteria compris[es] the alternative or alternatives of the first selection criteria plus at least one alternative selected from the revised feature screen.” (Claim 1, step (h)). For at least these reasons, the broadest reasonable interpretation of claim 1, step (h) is receiving and accepting a second selection criteria, in which said second selection criteria comprises (1) a resubmission of the alternative or alternatives of the first selection criteria along with (2) at least one alternative selected from the revised feature screen.

Additionally, this process is explained in Patentee’s specification as follows. “The client 126 initiates a request to the server 125 for the catalog searching application via the Internet. The

server *detects* the request. *Receipt* of the request executes the requested application on the server 125 that permits the user on the client 126 to select a family 1 or subfamily 2.” (US 6,275,821, col. 18, lines 41-46) (emphasis added). Thus, claim 1 should be read as reciting detecting, including receiving, a second selection criteria which includes a retransmission of “the alternative or alternatives of the first selection criteria plus at least one alternative selected from the revised feature screen.” (Claim 1). Consequently, and as will be further explained at length below, the specification of Patentee’s patent, US 6,275,821, supports only this interpretation of claim 1.

Continuing with evidence from Patentee’s specification, Fig. 25 is reproduced below and is described as follows. “FIG. 25 is a representation of a server and client configuration *and the flow of data therebetween.*” (US 6,275,821, col. 5, lines 3-4) (emphasis added). As will be seen in Fig. 25, the data submitted to the server is identified as “selection criteria 14.”

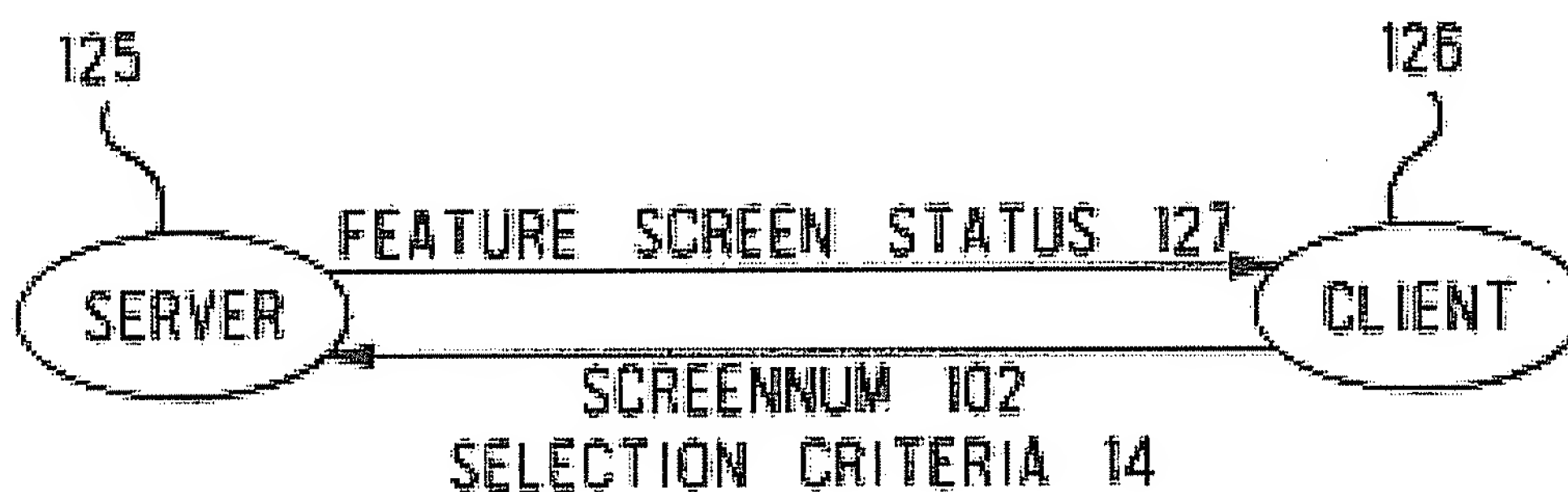


Fig. 25

In describing “selection criteria 14,” Patentee’s specification states the following. “When the user initiates a search via the search pushbutton 208 or a double mouse click, the system gathers the selection criteria 14 from the user selectors 16, 23 that are toggled ‘on’, indicating the selected alternatives 37. Using the selection criteria 14, the system searches the family 1 for items 3 that satisfy the selection criteria 14.” (US 6,275,821, col. 8, lines 6-10). After this first iteration of the search, “[t]he user may select one or more available alternatives 7 and then initiate a search by clicking twice or using the search pushbutton 208. The system performs an identical search to the one disclosed hereinabove and revises the feature screen accordingly. By virtue of the fact that selected alternatives 37 are added to the selection criteria 14, the subfamily 2 that satisfies the selection criteria 14 necessarily has fewer items 3.” (US 6,275,821, col. 8, lines 59-66).

In other words, whenever a search is initiated, the system gathers all the existing selection criteria, both that previous entered and the latest selection(s) made, to constitute the “selection criteria 14.” The most newly “selected alternatives 37 are added to the selection criteria 14.” (*Id.*). As shown in Fig. 25, this collection of all existing search criteria, previous and current, i.e., “selection criteria 14,” is what is transmitted from the client to the server. (*See* US 6,275,821, Fig. 25). In light of this disclosure, one of skill in the art would clearly understand step (h) of claim 1 to be reciting a method step including receiving and accepting a second selection criteria which includes a retransmission of “the alternative or alternatives of the first selection criteria plus at least one alternative selected from the revised feature screen.” (Claim 1).

Additionally, Patentee’s specification further states that “[a]s the selection criteria 14 is always sent, it may comprise zero selected alternatives 37. It is apparent, therefore, that *the server 125 sends all of the information necessary to define the current subfamily 2 to the client*

126. *The information, therefore, need not be retained in memory on the server 125.*” (US 6,275,821, col. 18, lines 54-59) (emphasis added). This is further evidence that one of skill in the art would have understood that “accepting” in step (h) of claim 1 should be interpreted as comprising receipt of all previous and current selection criteria so as to be “all of the information necessary to define the current subfamily” so that “information, therefore, need not be retained in memory on the server 125.” (US 6,275,821, col. 18, lines 54-59).

Patentee’s specification further states the following. “The user on the client makes selections from among the available alternatives 7 generating *a selection criteria different from that which was set [sent]* to it. The client 126 initiates a search with the modified selection criteria 14. *The client 126 sends to the server 125, the ScreenNum 102 value sent to it by the server, and the modified selection criteria 14.* The server 125 receives the ScreenNum 102 and *the selection criteria 14.* The server 125 executes the search operation as disclosed hereinabove using the *revised selection criteria* and generates the feature screen status 127. The server 125 sends the feature screen status that has been updated based on the modified selection criteria 14 to the client 126.” (US 6,275,821, col. 18, line 64 to col. 19, line 8) (emphasis added). This further makes clear that one of ordinary skill in the art would have understood claim 1 to describe, in step (h), the receipt or acceptance of modified search criteria which include previous as well as current search criteria.

While Patentee understands that limitations are not imported from the specification to the claims, it is also true that the claims must be construed in light of the specification from the perspective of one of ordinary skill in the art. *Markman v. Westview Instruments*, 116 S. Ct. 1384 (1996); *McGill, Inc. v. John Zink Co.*, 736 F.2d 666, 674 (Fed. Cir. 1984); *ZMI Corp. v.*

Cardiac Resuscitator Corp. 884 F.2d 1576, 1580, 6 U.S.P.Q.2d 1557, 1560-61 (Fed. Cir. 1988) ("words must be used in the same way in both the claims and the specification.").

In the present case, Patentee respectfully submits that, with a consistent interpretation of the term "accepting" in claim 1 as between steps (d) and (h), and in the light cast on the claimed subject matter by the portions of the specification described above, one of skill in the art could only reasonably construe step (h) of claim 1 as reciting the receipt of a second selection criteria which includes a retransmission of "the alternative or alternatives of the first selection criteria plus at least one alternative selected from the revised feature screen." (Claim 1). If reviewed in light of the specification and the context of the entire claim, any other construction is precluded as beyond the broadest reasonable interpretation that would be understood by one of ordinary skill in the art.

Once claim 1 is properly construed, it becomes inescapably clear that the cited prior art does not teach or suggest the method claimed. With regard to step (h), the final Office Action reads Granacki as follows: "(h) accepting a second selection criteria comprising the alternative or alternative of the first selection criteria (*the technology attribute "TECH"*) plus at least one alternative (*e.g., the manufacturer attribute "MFR"*) selected from the revised feature screen (*note "restriction by multiple attributes (for example, "TECH" {technology} and "MFR" {manufacturer}*). *The list of components can be restricted by an attribute and by as many attributes as desired" in Section 1.3).*" (Action, p. 4) (emphasis in original). In support, the Action cites Granacki at Section 1.3. This section reads, in pertinent part, as follows.

The user can restrict the list of components at any time by selecting an entry in any column. For example, by selecting CMOS in the technology attribute column the user restricts the list of components to only those belonging to the class CMOS. The

restriction of multiple attributes (for example, “TECH” {technology} and “MFR” {manufacturer}) further reduces the list to a set of components that have the attribute selected in each column (see Figure 2). Selecting an attribute highlights the particular selection and removes the other attributes from the list, components can be unselected by clicking again on the highlighted attribute, this rebuilds the lists according to the remaining selections, thus the user can move forward and backward in the query process till the desired component has been found. This list of components can be restricted by any attribute and by as many attributes as desired until a single component is selected. (Granacki, p. 4, Sec. 1.3).

Thus, as clearly described above, the user of the Granacki system selects a first attribute, e.g., CMOS in the TECH category, and the system accepts and records that selection. The Granacki system then “restricts the list of components to only those belonging to the class CMOS.” (*Id.*).

The user of the Granacki system then makes a second selection, e.g. designating a manufacturer (MFR). The system then accepts that selection and “reduces the list to a set of components that have the attribute selected in each column.” (*Id.*). This process taught by Granacki, however, is not what is claimed.

As noted above, claim 1 expressly defines a second selection criteria as “comprising the alternative or alternatives *of the first selection criteria* plus at least one alternative selected from the revised feature screen.” (Claim 1) (emphasis added). This second selection criteria, comprising *both* the alternative or alternatives of the first selection plus at least one additional alternative, is “accepted” in step (h) of the claimed method. In contrast, Granacki never teaches or suggests accepting a new or “second” selection criteria that comprises not only the latest selection, but also the alternatives of a previous selection.

In the example above, which was expressly cited in the final Office Action, Granacki teaches accepting a first selection, e.g., CMOS in the TECH category. This allegedly

corresponds to step (d) of claim 1. However, Granacki then teaches that the second selection consists only of a single additional attribute, e.g., manufacturer (MFR). Granacki does not teach or suggest that the second selection “accepted” by the system comprises both the attributes of the first selection round and the attributes of the second selection round. As would be appreciated by one of skill in the art, the Granacki system is maintaining a specific session with its user and is already in a state reflecting the first selection when the second selection is received and “accepted.”

Thus, Granacki fails to teach or suggest the method of claim 1 including “(d) accepting a first selection criteria of at least one alternative,” and then (h) accepting a second selection criteria comprising the alternative or alternatives of the first selection criteria [again] *plus* at least one alternative selected from the revised feature screen.” (Claim 1). This subject matter is not taught or suggested by Granacki.

Respectfully, to anticipate a claim, a reference must teach each and every element of the claim, and “the identical invention must be shown *in as complete detail as contained in the ... claim.*” MPEP 2131 citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 2 USPQ2d 1051 (Fed. Cir. 1987) and *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913 (Fed. Cir. 1989) (emphasis added). Moreover, “[t]he prior art reference—in order to anticipate under 35 U.S.C. § 102—must not only disclose all elements of the claim within the four corners of the document, but must also disclose those elements ‘arranged as in the claim.’” *NetMoneyIn v. Verisign*, (Fed. Cir. 2008) (quoting *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542 (Fed. Cir. 1983)).

Clearly, Granacki fails to meet these standards with respect to claim 1. Granacki simply does not teach or suggest a method including “(h) accepting a second selection criteria [where that second selection criteria comprises both] the alternative or alternatives of the first selection criteria plus at least one alternative selected from the revised feature screen,” (Claim 1). Thus, Granacki does not teach or suggest each and every element of the method of claim 1. Moreover, Granacki clearly fails to teach or suggest the method of claim 1 in as complete detail as recited in claim 1. Finally, Granacki clearly fails to teach or suggest all the elements of claim 1 “as arranged in the claim.” (*Id.*). For any and all of these reasons, the rejection of claim 1 based on Granacki should be reconsidered and withdrawn.

Moreover, because Granacki fails to teach or suggest the “second selection criteria” of step h, which includes previous and current search criteria, Granacki also cannot teach or suggest the following steps of the method including “(i) determining a second subfamily of items of the family *wherein each item in the second subfamily satisfies said second selection criteria.*” (Claim 1, step i) (emphasis added). Granacki also cannot teach or suggest “(j) determining available alternatives represented in the second subfamily, and (k) revising said feature screen to indicate the available alternatives of the second subfamily.” (Claim 1, steps j and k).

Again, “[a] claim is anticipated [under 35 U.S.C. § 102] only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). See M.P.E.P. § 2131. Therefore, for at least the reasons explained here, the rejection based on Granacki of claims 1 and 2 should be reconsidered and withdrawn.

(2) The Request for Re-Examination in this matter and the recent Office Action cited three other prior art references under consideration. As identified in the recent Office Action, these reference are as follows.

- (a) The Nisus Compact Manual (of record);
- (b) Davis (of record); and
- (c) Bemers-Lee (of record).

The Patentee has studied each of these references and finds that none of them, in any combination, teach or suggest the novel aspects of claim 1 as explained above. This subject matter is simply beyond the prior art of record.

Patentee further notes that the novel aspects of claim 1 were appreciated by the Examiner who issues the patent in question in the first place and were among the reasons for allowance. Patentee refers to p. 5 of the amendment filed July 11, 2000 in the prosecution of U.S. Patent No. 6,275,821.

It is clear that the novel features of claim 1 have not been appreciated by the Requestor in this Re-Examination. Accordingly, the Patentee respectfully requests prompt withdrawal of the current Office Action, confirmation of claims 1-8 of the patent in question and allowance of new claim 9.

New Claim:

As noted above, a new independent claim, claim 9, is proposed by the present paper. Claim 9 essentially repeats the language of claim 1 with some explicit clarification to avoid the interpretation issues addressed above.

The express language of proposed claim 9 is used above as a description of the correct interpretation for the language of original claim 1. Thus, claim 9 is clearly patentable over the cited prior art for at least the same reasons given above in favor of claim 1. Therefore, entry, consideration and allowance of claim 9 are respectfully requested.

Entry and consideration of this amendment are proper under 37 C.F.R. § 1.116 for at least the following reasons. The present amendment merely adds a claim of comparable scope to the original claims and thus does not raise any new issues. Moreover, the proposed new claim makes only those changes suggested by the Examiner to place such a claim in condition for allowance over the prior art at issue. Therefore, entry of the present amendment is proper under 37 C.F.R. § 1.116 and is hereby requested.

Litigation Status:

As indicated in the report attached to the Order Granting Request for Ex Parte Examination, the patent in question is currently being asserted in a lawsuit by the patent owner. Originally, Case No. 2007cv440, Partsriver, Inc. v. Shopzilla, Inc. et al., was filed in the U.S. District Court for the Eastern District of Texas.

At the present time, the case has been moved on venue grounds to the California Northern Federal District Court, Case No. :2009cv00811. A hearing on various summary judgment

motions in the case was held July 16, 2009. One basis for summary judgment argued at the hearing is that the patent is invalid due to an offer for sale more than one year prior to the filing of the priority parent patent application. Evidence regarding this issue was submitted in affidavit form during the original prosecution of the present patent. In the interests of complete disclosure, Patentee has filed herewith an Information Disclosure Statement to make of record the motion and related documents presented at the July 16th hearing.

The court has not yet issued any decisions from the hearing.

Conclusion:

In view of the foregoing arguments, all claims are believed to be in condition for confirmation over the prior art of record. Therefore, this response is believed to be a complete response to the Office Action. However, Patentee reserves the right to set forth further arguments in future papers supporting the patentability of any of the claims, including the separate patentability of the dependent claims not explicitly addressed herein. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed.

The absence of a reply to a specific rejection, issue or comment in the Office Action does not signify agreement with or concession of that rejection, issue or comment. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment. Further, for any instances in which the Examiner may wish to take Official Notice in the Office Action, Patentees

expressly do not acquiesce to the taking of Official Notice, and respectfully request that the Examiner provide an affidavit to support any such Official Notice in the next Office Action, as required by 37 CFR 1.104(d)(2) and MPEP § 2144.03.

If the Examiner has any comments or suggestions which could place this application in better form, the Examiner is requested to telephone the undersigned attorney at the number listed below.

If any fees are owed in connection with this paper that have not been elsewhere authorized, authorization is hereby given to charge those fees to Deposit Account 18-0013 in the name of Rader, Fishman & Grauer PLLC.

Respectfully submitted,

DATE: 4 August 2009

/Steven L. Nichols/
Steven L. Nichols
Registration No. 40,326

Steven L. Nichols, Esq.
Managing Partner, Utah Office
Rader Fishman & Grauer PLLC
River Park Corporate Center One
10653 S. River Front Parkway, Suite 150
South Jordan, Utah 84095
(801) 572-8066
(801) 572-7666 (fax)

INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Not for submission under 37 CFR 1.99)	Application Number		90009316	
	Filing Date		2008-10-28	
	First Named Inventor	Sherif Danish		
	Art Unit	3992		
	Examiner Name	B. James Peikari		
	Attorney Docket Number	40420-0001		

U.S.PATENTS								
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Examiner Initials*	Cite No	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc), date, pages(s), volume-issue number(s), publisher, city and/or country where published.						T ⁵

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	Art Unit	3992	
	Examiner Name	B. James Peikari	
	Attorney Docket Number	40420-0001	

	1	"Declaration of Horacio Woolcott"; December, 5, 2007; Civil Action No. 2:07-CV-440 DF; United States District Court, Eastern District of Texas, Marshall Division	<input type="checkbox"/>
	2	"Oral and Videotaped Deposition of Kris W. Kimbrough"; January 22, 2009; Civil Action No. 2:07-CV-440 DF; United States District Court, Eastern District of Texas, Marshall Division	<input type="checkbox"/>
	3	"Affidavit of Mohamed Sherif Danish" dated February 12, 1997; filed in United States Patent and Trademark Office Application No. 08/323,186 (application for "Method and System for Executing a Guided Parametric Search" was filed on October 14, 1994).	<input type="checkbox"/>
	4	"Joint Claim Construction and Prehearing Statement"; December 15, 2008; Civil Action No. 2:07-CV-440 DF; United States District Court, Eastern District of Texas, Marshall Division	<input type="checkbox"/>
	5	"Plaintiff's Disclosure of Asserted Claims and Infringement Contentions"; February 18, 2008; Civil Action No. 2:07-CV-440 DF; United States District Court, Eastern District of Texas, Marshall Division.	<input type="checkbox"/>
	6	"Oral and Videotaped Deposition of Sherif Danish, Volume 1 and 2"; January 20-21, 2009; Civil Action No. 2:07-CV-440 DF; United States District Court, Eastern District of Texas, Marshall Division	<input type="checkbox"/>
	7	"Declaration of J. Tipton Cole in Support of Plaintiff PartsRiver Inc.'s Response in Opposition to Defendants' Motion for Summary Judgment of Non-Infringement and Invalidity Due to the On-Sale Bar"; June 18, 2009; Civil Action No. 4:09-cv-00811-CW (filed Feb. 25, 2009); United States District Court, Northern District of California, Oakland Division	<input type="checkbox"/>
	8	"Defendant's Motion to Transfer"; April 22, 2009; Civil Action No. 2:07-CV-440 DF; United States District Court, Eastern District of Texas, Marshall Division	<input type="checkbox"/>
	9	"Plaintiff's Response to Defendants' Motion to Transfer Under 1404(a) and 1406(a) or, Alternatively, to Dismiss Under 12(b)(2) and (3); Civil Action No. 2:07-CV-440 DF; United States District Court, Eastern District of Texas, Marshall Division	<input type="checkbox"/>
	10	"Proposal for Development of a Navigator for EADS"; March 3, 1992; Danish International, Inc.	<input type="checkbox"/>
	11	"Joint Stipulation and [Proposed] Order to Set Briefing Schedule and Continue the Case Management Conference Until July 16, 2009"; May 22, 2009; Civil Action No. 4:09-cv-00811-CW (filed Feb. 25, 2009); United States District Court, Northern District of California, Oakland Division	<input type="checkbox"/>

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	12	"Declaration of Jack Baldwin in Support of Plaintiff's Opposition to Defendant's Motion for Summary Judgment"; June 19, 2009; Civil Action No. 4:09-cv-00811-CW (filed Feb. 25, 2009); United States District Court, Northern District of California, Oakland Division	<input type="checkbox"/>
	13	"Declaration of Theodore W. Chandler in Support of Defendant's Motion for Summary Judgment of Non-Infringement and Invalidity Due to the On-Sale Bar"; July 9, 2009; Civil Action No. 4:09-cv-00811-CW (filed Feb. 25, 2009); United States District Court, Northern District of California, Oakland Division	<input type="checkbox"/>
	14	"Joint Stipulation and Order Replacing Documents Previously Lodged Under Seal with Only Public Versions as Modified"; July 22, 2009; Civil Action No. 4:09-cv-00811-CW (filed Feb. 25, 2009); United States District Court, Northern District of California, Oakland Division	<input type="checkbox"/>
	15	"Declaration of J. Tipton Cole in Support of Plaintiff PartsRiver, Inc.'s Response in Opposition to Defendants' Motion for Summary Judgment of Non-Infringement and Invalidity Due to the On-Sale Bar" June 18, 2009; Civil Action No. 4:09-cv-00811-CW (filed Feb. 25, 2009); United States District Court, Northern District of California, Oakland Division	<input type="checkbox"/>
	16	"Document 226-1"; Exhibits A through I; 55 pages; filed on July 10, 2009 in Civil Action No. 4:09-cv-00811-CW (filed Feb. 25, 2009); United States District Court, Northern District of California, Oakland Division	<input type="checkbox"/>
	17	Replacement "Declaration of Jack Baldwin in Support of Plaintiff's Opposition to Defendant's Motion for Summary Judgment"; June 19, 2009; Civil Action No. 4:09-cv-00811-CW (filed Feb. 25, 2009); United States District Court, Northern District of California, Oakland Division	<input type="checkbox"/>
	18	"Defendants' Reply in Support of Their Motion for Summary Judgment of Non-Infringement and Invalidity Due to the On-Sale Bar"; July 2, 2009; Civil Action No. 4:09-cv-00811-CW (filed Feb. 25, 2009); United States District Court, Northern District of California, Oakland Division	<input type="checkbox"/>
	19	"Defendants' Motion for Summary Judgment of Non-Infringement and Invalidity due to the On-Sale Bar"; June 19, 2009; Civil Action No. 4:09-cv-00811-CW (filed Feb. 25, 2009); United States District Court, Northern District of California, Oakland Division	<input type="checkbox"/>

If you wish to add additional non-patent literature document citation information please click the Add button

EXAMINER SIGNATURE

Examiner Signature		Date Considered	
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*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through a citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ See Kind Codes of USPTO Patent Documents at www.USPTO.GOV or MPEP 901.04. ² Enter office that issued the document, by the two-letter code (WIPO Standard ST.3). ³ For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁴ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. ⁵ Applicant is to place a check mark here if English language translation is attached.

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	Examiner Name	B. James Peikari	
	Attorney Docket Number		40420-0001

CERTIFICATION STATEMENT

Please see 37 CFR 1.97 and 1.98 to make the appropriate selection(s):

☐ That each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement. See 37 CFR 1.97(e)(1).

OR

☐ That no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in 37 CFR 1.56(c) more than three months prior to the filing of the information disclosure statement. See 37 CFR 1.97(e)(2).

☐ See attached certification statement.

☒ Fee set forth in 37 CFR 1.17 (p) has been submitted herewith.

☐ None

SIGNATURE

A signature of the applicant or representative is required in accordance with CFR 1.33, 10.18. Please see CFR 1.4(d) for the form of the signature.

Signature	/Steven L. Nichols/	Date (YYYY-MM-DD)	2009-08-04
Name/Print	Steven L. Nichols	Registration Number	40,326

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

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1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.